Exhibit 5

MICHAEL GREY FISCHER V. GEICO

January 22, 2025

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i age i	1	MICHAEL GREY
IN THE UNITED STATES DISTRICT COURT	2	APPEARANCES CONTINUED:
FOR THE EASTERN DISTRICT OF NEW YORK	3	ALSO PRESENT:
)	4	BRENT JORDAN, Legal Video Specialist
KEITH FISCHER, MICHAEL O'SULLIVAN,)	5	Esquire Deposition Solutions
JOHN MOESER, LOUIS PIA, THOMAS) Case No.:	6	
BARDEN, CONSTANCE MANGAN, and) 2:23 Civ. 2848	7	
CHARISE JONES, individually and) (GRB) (ARL)	8	
on behalf of all others similarly)	9	
situated,)	10	
Plaintiffs,)	11	
- v -)	12	
GOVERNMENT EMPLOYEES INSURANCE)	13	
COMPANY d/b/a GEICO,)	14	
Defendant.)	15	
)	16	
	17	
REMOTE VIDEOTAPED DEPOSITION OF MICHAEL GREY	18	
	19	
	20	
	21	
	22	
Reported by:	23	
Kim M. Brantley	24	
Job No: J12254485	25	
Pogo 2		Pogo /
MICHAEL GREY	1	Page 4 MICHAEL GREY
Wednesday, January 22, 2025	2	PROCEEDING
Time: 10:02 a.m.	3	THE LEGAL VIDEO SPECIALIST: We are now
Remote videotaped deposition of MICHAEL GREY,	4	on the record. The time is 10:02 Eastern
held via Zoom, before Kim M. Brantley, Court	5	time on January 22nd, 2025. This begins the
Reporter and Notary Public of the State of New	6	video conference deposition of Michael Grey,
York.		taken in the matter of Keith Fischer, et al.,
	8	v. Government Employees Insurance Company.
APPEARANCES:	9	This case is filed in the United States
On behalf of the Plaintiffs:	10	District Court, Eastern District of New York,
OUTTEN & GOLDEN, LLP	11	Case No. 223-civ-2848.
685 Third Avenue, 25th Floor	12	My name is Brent Jordan. I'm your
New York NY 10017	13	remote videographer for today. The court
(202) 847-4400	14	reporter is Kim Brantley. We are
Email: sjean@outtengolden.com	15	representing Esquire Deposition Solutions.
BY: SABINE JEAN, ESQUIRE	16	Will counsel present please identify
	17	yourself and state whom you represent.
On behalf of the Defendant GEICO:	18	MS. JEAN: This is Sabine Jean from
DUANE MORRIS, LLP	19	Outten & Golden, representing plaintiffs and
190 South LaSalle Street - Suite 3700	20	opt-in plaintiffs.
		MR. TSONIS: Craig Tsonis, from Duane
Chicago, Illinois 60603	21	
Chicago, Illinois 60603 (312) 499-6779		-
	22	Morris, LLP, representing defendant GEICO.
(312) 499-6779		-
	KEITH FISCHER, MICHAEL O'SULLIVAN,) JOHN MOESER, LOUIS PIA, THOMAS) Case No.: BARDEN, CONSTANCE MANGAN, and) 2:23 Civ. 2848 CHARISE JONES, individually and) (GRB) (ARL) on behalf of all others similarly) situated,	### REITH FISCHER, MICHAEL O'SULLIVAN,



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MICHAEL GREY

- 2 based off of Woodbury and HMOs that were in the
- 3 New York City area, and meanwhile in the Buffalo
- 4 office they had HMOs, and that had to do with the
- 5 Buffalo area. And GEICO changed our pay scale
- 6 from a Woodbury scale to the Buffalo scale, which
- 7 was lower. And then I said. "Well. if that's the
- 8 case, then we should be able to get the benefits
- 9 that they're getting in the Buffalo office."

They struck me down a couple times, and then in due time, I'm proud to say, that we were

- 12 all able to get independent help, including
- 13 adjustors, and SIU investigators, et cetera,
- 14 basically showing the precedent -- it set the
- 15 precedent that I would mention things that should
- 16 be handled, and it would take two or three times
- 17 before they would come to the realization, and I
- 18 had to go farther up the chain for this stuff to
- 19 happen; very similar to the -- the whistleblower
- 20 stuff.

21

- I also went into the Buffalo office
- 22 in -- in meeting with -- for the United Way
- 23 they would have us come in I think yearly for
- 24 them to give us a presentation on the United
- 25 Way.

MICHAEL GREY

we were able to get all those benefits.

And so I am proud to say that it

4 probably took care of twenty-five to fifty

5 representatives in both auto damage and SIU that

6 were able to take advantage of those benefits that

GEICO wasn't going to provide for them.

8 Q. You never -- while you were at SIU, you

9 never worked out of the Buffalo office, though,

10 right?

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11 A. Correct.

Q. You were never a part of region eight,

13 to your knowledge?

A. I don't believe so.

15 Again, I'm not sure what was going on

16 at the very end. My supervisor was out of Boston,

17 which is part of region eight. I don't think that

18 they have region eight any more. I -- I don't

19 really know. It -- it was a lot of confusion and

20 changes going on.

21 Q. That's a fair point.

So, is it your recollection that at

23 some point GEICO changed from a

24 geographically-based sort of organizational

25 structure to a more, you know,

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MICHAEL GREY

2 BY MR. TSONIS:

3 Q. Approximately what year was the

4 benefits-related change that you were referencing?

5 A. So I don't know the exact dates, but

6 I'm going to -- if -- approximately -- the Buffalo

7 office probably opened around 2008, 2009,8 something of that nature. And then soon after

9 GEICO decided, "Well, if we have a Buffalo pay

10 rate, and Mike Grey, you live in the Buffalo area,

11 you're going to get a ten percent cut in your pay

40 ka a a saa a saa a da ah libaa in Maa ah saa a a saalaa a a s

12 because you don't live in Woodbury, so we're not

13 going to base you off of the pay at Woodbury.14 We're going to base you -- the pay in Buffalo."

15 So, I would guess within two years of

16 that Buffalo office opening, I met with somebody.

17 Her name is -- was Angela Rinelli. She has since

18 gone on to -- I would say she's a vice president

19 of some sort, probably in the top ten of GEICO

20 chain right now, and she was in human resources at

21 the time, and she told me, no, that wasn't going22 to happen.

I went back a second time. She said,

24 "No, that's not going to happen."

25 I then went above her and, sure enough,

MICHAEL GREY

2 vertically-integrated function structure?

A. Yes.

4 MS. JEAN: Objection.

5 BY MR. TSONIS:

6 Q. Okay. Do you recall approximately when

7 that change took place?

8 A. Only because 2023, spring 2023, that

9 would be my guess.

10 Q. I appreciate that.

So prior to, you know, that change, did

12 you ever work out of the Buffalo office?

A. No.

14 Q. You've referenced at some point meeting

15 the head of region eight. Do you recall when that

16 was?

17 A. His name was Doug, I believe, and I was

18 with SIU. Before COVID -- 2016, 2017, 2018,

19 something in that nature.

Q. When you say the head of region eight,

21 do you mean like the regional vice president or

22 the SIU manager in region eight?

23 A. I believe he was the regional vice

24 president.

25 Q. Okay.



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2 A. So he ran the region. That's --

3 that's -- I believe that's who we met with.

Q. Okay. What did you discuss with that 4

5 regional vice president, or that individual?

A. I think he just wanted to get an idea

7 of what we were doing, things in the area. I

8 believe that they -- again, this is a belief; I

9 don't know -- I think that they were looking at 10 options. Again, we're in Buffalo, yet we're

11 considered employees of Woodbury, but we're

12 getting paid at the Buffalo rate, and we're

13 getting Buffalo benefits. Is -- is there some

sort of line that they're going to draw in Albany

15 that we all might be a part of this?

So I think he was asking for that, and

17 he just wanted also, get a feel for SIU. Because

18 the SIU for region eight would have been in New

19 England. That's what region eight handled. So

20 for him to actually sit down with somebody, he'd

21 have to go to New England and New Jersey and sit

22 down with people, and instead he could sit down

23 with us.

24 Q. So region two -- which is based out of

25 Woodbury, later Melville -- is it your

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but it would -- handle that, and then to the east

side of Rochester, maybe half between Rochester

and Syracuse. I don't know if you're familiar

with New York State at all, but...

But an hour and a half -- I think they

had a two-hour driving window form, or a mileage

8 form. So that's what we handled.

Then when the pandemic hit, it changed

to still trying to get most of them in our area,

but I picked up a lot of stuff that would be

12 downstate New York, et cetera.

13 And then, when the whole regional

14 changed that we were talking about, where it was

no longer region, it was more so of apartments, I

had cases all the way to the west coast,

17 Washington, California, Arizona, whatever, State

18 of Washington, I mean, and then all the way up

down, up and down the -- I mean, I -- I don't

there was any state that I was not allowed to have 20

21 a case in at that point.

Q. Okay. So after that change, the

23 geographic I guess location of like the claims you

24 were investigating sort of expanded. It could be

25 it sounds like anywhere nationally?

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understanding that region two investigated claims within the State of New York? 3

4 A. Yeah, I was a member of region two, an

5 employee out of Woodbury. It had no association

6 really with region eight, other than -- so if I

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7 went to region eight and I had gave my ID, I

8 wouldn't be able to get in. I'd have to go

9 through security and discuss everything, et

10 cetera. I was not -- I had no access to region

11 eight, even though I lived in Buffalo.

12 Q. While you worked for GEICO, did you

13 always investigate claims within the State of New

York, or did you investigate claims, you know,

15 outside of New York, for example, in New England?

16 A. Yeah, for the most part I would say for

six years it was -- I shouldn't say that. 17

Definitely before COVID. 18

19 So before COVID, before the pandemic,

20 it was strictly within an hour and a half, like

maybe once in a blue moon Syracuse that I would go

22 to. I'd handle down to Pennsylvania, maybe even a

23 claim that -- a case that the person lived in

24 Pennsylvania but they worked in New York, very

25 once in a blue moon I might go into Pennsylvania,

MICHAEL GREY

2 A. Correct.

Q. Okay. What was your title when you

first came into SIU?

5 A. I believe I was considered a senior

6 field investigator.

7 Q. And that was in 2015?

8 A. Correct.

9 Q. At some point did your title change?

10 A. Yes. In December of 2023 I became a

desk investigator. GEICO took away my car and my

phone and had me just working in front of a

computer all day rather than going in the field.

Q. Got it.

15 When you say "desk investigator," I

guess was the job title like senior internal

17 security investigator?

A. Possibly. Sorry, I don't know. I

19 just -- they termed us field and desk.

20 You might be right that that was the

21 title. I never got a card or anything that showed

22 what my title is because it never went out on the

23 road.

24 Q. Did the types of cases that you

25 investigated as a desk investigator differ from



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1	Page 253 MICHAEL GREY	1	Page 255 MICHAEL GREY
	A. Yes.	2	A. Possibly. I don't I don't know. I
3		3	don't know.
	Q. Okay. Do you agree that it was	4	
4	unprofessional?		Q. You can't think of a single area where
5	MS. JEAN: Objection.	5	you've actually documented that you've worked time
6	THE WITNESS: I think that I worked for	6	but were not paid for it?
7	this company for twenty-one years, and if I	7	MS. JEAN: Objection.
8	was unprofessional, I wouldn't have lasted	8	THE WITNESS: I made comments to Chet,
9	this long.	9	numerous comments to Chet. I I stopped
10	I think basically what was going on is	10	with Andrew.
11	that I touched a nerve; they didn't	11	BY MR. TSONIS:
12	appreciate it, and they made subtle changes	12	Q. I'm my question's a little bit
13	in order to get through with, but there's	13	different. I understand your prior testimony.
14	no after my discussions with the State of	14	In any of the complaints that you
15	New York, I'm pretty certain that they were	15	raised regarding GEICO's failure allegedly to
16	breaking regulations, and directors knew it,	16	comply with the law by not complying with New York
17	and that's why directors changed, and other	17	insurance regulations, did you raise any complaint
18	people took over.	18	and document it that GEICO was not following
19	BY MR. TSONIS:	19	federal or state wage and hour laws?
20	Q. Turning back to this performance	20	 No. That was not part of my complaint.
21	appraisal	21	It was strictly right or wrong in how we were
22	A. Mm-hmm.	22	treating customers. It was not personal.
23	Q. You write we don't need to rehash	23	Q. Okay. But as part of this lawsuit,
24	it, but you write in the beginning about	24	you're alleging that GEICO failed to comply with
25	"turnover" for lack of a better word at various	25	both federal and New York State wage and hour
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1	MICHAEL GREY	1	MICHAEL GREY

2 levels? 3

A. Yes.

Q. You write, "Despite these obstacles, I 4 5 was able to successfully handle the workload and

6 produce adequately for the provision"?

7 A. Yes.

Q. Right? And overall, in terms of your 8

9 rating here, it looks like you're rated a three,

10 meet expectations?

11 A. Yeah, I don't know where the point

12 sixes or any of that went from before. Maybe

13 that's in the bottom. I don't know.

Q. Yeah, I mean it -- (undecipherable) it 14

15 just shows a three, "Meets Expectations."

A. Right. Again, this particular

17 appraisal -- yes, it just says "Meets

18 Expectations."

16

Q. Okay. I think you testified at length 19

20 here about various complaints that you've raised

21 to your supervisor or management at GEICO, right?

22 A. Yes.

23 Q. In any of those formal complaints did

you document any complaint regarding unpaid

25 overtime?

laws, right?

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A. Oh, I'm sorry. Say that again.

Q. As part of this lawsuit, you are

alleging that GEICO failed to comply with federal

and New York State wage and hour laws, right?

7 A. I believe so, yes.

8 Q. All right. In none of your performance

appraisals that we looked at do you ever address

or discuss allegedly unpaid over time? 10

A. Correct.

12 Q. Right? And sitting here today, you

can't think of a single document in which you had

actually notified anyone in writing of overtime

that you claim to have worked but you were not 15

16 paid for.

17 Isn't that right?

MS. JEAN: Objection.

19 THE WITNESS: I think it was implied

20 with Chet. I -- I didn't address it anymore

with anyone else after that for fear of

22 losing my job.

23 BY MR. TSONIS:

24 Q. I think you mentioned -- so, to be

25 clear, you never mentioned to Toni D'Agata that



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2 you were working time off the clock but not being

- 3 compensated -- compensated for it?
 - A. Yeah, I didn't -- I didn't have very
- 5 much of a relationship with Toni and didn't
- 6 discuss much with her at all, correct.
- 7 Q. Okay. And did you ever discuss working
- 8 off the clock with Mr. Gelderman and not being
- 9 paid for it?

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- 10 A. I explained to Mr. Gelderman that I
- 11 would not take extra cases because that would -- I
- 12 was no longer going to pay -- I'm sorry, that I
- 13 was no longer going to work overtime and not get
 - 4 paid. That I definitely did speak to him about.
 5 Q. Isn't it true that Mr. Gelderman in
- 16 writing coached you that you were not permitted to
- 17 work off the clock?
- 18 MS. JEAN: Objection.
 - THE WITNESS: Mr. Gelderman, after
- 20 being my supervisor for several months,
- 21 explained to me that my interpretation was
- 22 flex time was incorrect.
- 23 BY MR. TSONIS:
- 24 Q. Was your interpretation of flex time
- 25 that you could work time but not enter it into

MICHAEL GREY

- A. Yes.
- 3 Q. And the subject is "July 30th Working
- 4 Hours"?

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- 5 A. Yes.
- 6 Q. And Mr. Gelderman writes, "This email
- 7 is a follow-up to our discussion this morning.
- 8 Please read the full email and acknowledge you've
- 9 received/understood it.

"Yesterday you had logged on to work oncurrent cases in your pending. However this was

2 outside of the normal time GEICO has approved.

"As discussed, approval by GEICO

14 management is needed to work additional time

15 outside of your hours.

"I have noticed that time has not been

17 entered for yesterday at this time. Please make

18 any adjustments needed to reflect the hours

19 worked.

20 "I can submit this for you if you have

21 trouble doing so. Please see the excerpt from the

2 GEICO handbook at the end of this email.

23 "Future violations of this GEICO policy

24 can lead to further disciplinary actions up to and

5 including termination."

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- 2 Workday?
- 3 A. No, it was -- he was questioning why I
- 4 was working at 7:00 o'clock at night or something
- 5 to that effect, and I explained to him that I
- 6 thought that that was flex time, and he said "No,
- 7 that would have to be approved overtime."
- 8 MR. TSONIS: I'm going to drop in the 9 chat what's going to be I believe Exhibit 19.
- 10 And for the record Exhibit 19 is a document
- 11 Bates stamped G017971 to 972.
- 12 (Email chain Bates stamped G17971 to
- 13 972 was marked Deposition Grey Exhibit 19,
- 14 for identification.)
- 15 BY MR. TSONIS:
- 16 Q. And there is a top email, Mr. Grey, but
- 17 I want to focus your attention first on this email
- 18 from Mr. Gelderman.
 - Do you see this email?
- A. I see an email dated July 31st, 2023.
- 21 Q. All right. And this is from your
- 22 supervisor at the time, Mr. Andrew Gelderman?
- 23 A. Yes.

19

- 24 Q. And it's to you copying Patricia Wupio,
- 25 who would have been the SIU manager at that time?

MICHAEL GREY

- 2 Did I read that right?
 - A. That's what it says.
- 4 Q. All right. So, in this email Mr.
- 5 Gelderman is instructing you that the time that
- 6 you spend working, even if outside your normal
- 7 hours, has to be entered into Workday, right?
 - A. It has to be approved.
 - Q. It says, "I have noticed that time has
- 10 not been entered for yesterday at this time.
- 11 "Please make any adjustments needed to
- 12 reflect the hours worked," right?
 - A. I state that -- the sentiment is
- 14 outside the normal time GEICO has approved.
- 15 Q. Well, it doesn't say "Approval by GEICO
- 16 management is needed to work anytime outside of
- 17 the scheduled hours." He says "needed to work
- 18 additional time outside of your hours," right?
 - A. Yes.
- 20 Q. Okay. So for that additional time,
- 21 he's telling you that you need to make adjustments
- 22 in Workday to reflect the hours worked, right?
 - A. Yes.
 - Q. And then he includes GEICO's policy
- 25 contained in the Associate Handbook below, right?



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 3
    STATE OF NEW YORK )
                             : Ss.
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 5
    COUNTY OF NEW YORK )
                  I, Kim M. Brantley, Shorthand
 7
    Reporter, and Notary Public within and for the
 8
    State of New York, do hereby certify:
                That MICHAEL GREY, the witness whose
10
   deposition is hereinbefore set forth, was duly
11 sworn by me and that such deposition is a true
12 record of the testimony given by the witness.
                I further certify that I am not related
13
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   to any of the parties to this action by blood or
15
    marriage, and that I am in no way interested in
    the outcome of this matter.
16
                 IN WITNESS WHEREOF, I have hereunto set
17
18
    my hand this 2nd day of February, 2025.
19
                          Kim M. Brantsey
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                          Kim M. Brantley
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2.4
    My Commission expires May 31, 2026.
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